

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:12-cv-00176-MR-DLH**

**TOU GER LO,**

**Plaintiff,**

**vs.**

**EMERY CORPORATION,**

**Defendant.**

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**ORDER**

**THIS MATTER** is before the Court on the Defendant's Motion to Dismiss [Doc. 3] and the Magistrate Judge's Memorandum and Recommendation [Doc. 10] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the motion to dismiss and to submit a recommendation for its disposition.

On December 11, 2012, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed conclusions of law in support of a recommendation regarding the Defendant's motion. [Doc.

10]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation [Doc. 10], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendant's Motion to Dismiss should be granted in part with respect to the federal claims contained in Count Two of the Complaint and that the Court should decline to exercise supplemental jurisdiction over the remaining state law claims and remand this case.

### **ORDER**


**IT IS, THEREFORE, ORDERED** that the Memorandum and Recommendation [Doc. 10] is **ACCEPTED** and the Defendant's Motion to Dismiss [Doc. 3] is **GRANTED IN PART** with respect to the federal claims contained in Count Two of the Complaint.

Having dismissed the claims that form the basis of federal question jurisdiction in this case, the Court declines to exercise supplemental

jurisdiction over the remaining state law claims. Accordingly, **IT IS FURTHER ORDERED** that the state law claims remaining in this case are hereby **REMANDED** to the General Court of Justice, Superior Court Division, for Burke County, North Carolina, for further proceedings.

**IT IS SO ORDERED.**

Signed: January 3, 2013

  
Martin Reidinger  
United States District Judge

